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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/410,484	09/30/1999	JAN WADSTEIN	NATNUT-03972	6938

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EXAMINER	
ARNOLD, ERNST V	
ART UNIT	**PAPER NUMBER**
1616	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/410,484	WADSTEIN ET AL.	
	Examiner	Art Unit	
	Ernst V. Arnold	1616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-3 and 7-18* is/are pending in the application.

4a) Of the above claim(s) *8 and 10-18* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-3, 7 and 9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-3 and 7-18 are pending. Claims 8 and 10-18 have been withdrawn. Claims 1-3, 7 and 9 are under examination.

Applicant's response filed on 10/02/06 is acknowledged. The Examiner has carefully considered Applicant's arguments but does not find them persuasive. Accordingly this action is FINAL.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 7 and 9 remain/are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. (US 5,554,646) in view of Kawamura et al. (Hypertension 1996, 27, 408-413).

Applicant claims a method of treating hypertension in humans.

Determination of the scope and content of the prior art

(MPEP 2141.01)

As stated in the prior Office Action, Cook et al. disclose a method of reducing body fat comprising the administration of a safe and effective amount of conjugated linoleic acid (Abstract and claims 1-9). Cook et al. define conjugated linoleic acid as including mixtures and salts thereof (Column 4, lines 21-26). Cook et al. disclose 9,11-octadecadienoic acid and 10,12-octadecadienoic acid as conjugated linoleic acids obtained by their methods and therefore reading on instant claim 3 (Column 4, lines 37-41 and 60-67). Other geometric isomers, including cis-9, cis-11, can be obtained consequently reading on instant claim 2 (Column 4, lines 48-59 and column 5, lines 3-8)). Cook et al. disclose the addition of 0.1 to 10 grams of conjugated linoleic acid to the diet of humans as a food supplement thus reading on instant claim 9 (Column 2, example 3). Since the material was ingested, then the conjugated linoleic acid was administered orally and therefore reads on instant claim 7.

Kawamura et al. provide a nexus teaching between hypertension, weight loss and decreases in blood pressure. Kawamura et al. teach that changes in body weight exhibited significant correlations with blood pressure reduction in hypertensive overweight human patients (Abstract, pages 1 and 2; page 9, final paragraph).

Ascertainment of the difference between the prior art and the claims

(MPEP 2141.02)

Cooke et al. do not expressly teach a method of treating hypertension in humans.

Finding of prima facie obviousness

Rational and Motivation (MPEP 2142-2143)

It would have been obvious to one of ordinary skill in the art at the time the claimed invention was made to treat a hypertensive human patient with the method of Cooke et al. and produce the instant invention.

One of ordinary skill in the art would have been motivated to do this because Cooke et al. provide a method of reducing body fat and Kawamura et al. teach that reduction in weight in hypertensive patients results in a lowering of blood pressure. Thus, the method of Cooke et al. is beneficial to the instantly claimed patient population and would have been obvious to one of ordinary skill in the art.

From the teachings of the references, it is apparent that one of ordinary skill in the art would have had a reasonable expectation of success in producing the claimed invention. Therefore, the invention as a whole was *prima facie* obvious to one of ordinary skill in the art at the time the invention was made, as evidenced by the references, especially in the absence of evidence to the contrary.

Response to arguments:

Applicant asserted that the claims are not obvious because the cited references do not provide: 1) a motivation to combine and 2) do not provide a reasonable expectation of success. The Examiner cannot agree. First, Kawamura et al. provide a nexus teaching between weight loss in hypertensive patients and lowering of blood pressure. Cook et al. provide a method of reducing body fat, which is weight loss. It remains obvious to one of ordinary skill in the art that the method of Cook et al. can

lower blood pressure via weight loss. The Examiner did not assert that CLA would have a positive or negative effect on hypertension like ephedrine as submitted by Applicant. The Examiner asserts that weight loss is directly related to lowering of blood pressure, as supported by Kawamura et al., and CLA can be used to effect weight loss as taught by Cook et al. Secondly, one of ordinary skill in the art would have a reasonable expectation of success because of the nexus teaching of Kawamura et al.

Conclusion

No claims are allowed.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 7,157,496 is noted but the claims are not prior art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernst V. Arnold whose telephone number is 571-272-8509. The examiner can normally be reached on M-F (6:15 am-3:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ernst Arnold
Patent Examiner
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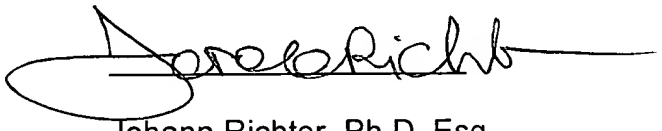
Art Unit 1616
May 02, 2006



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